

Income Considerations and Determination of Total Tenant Payment

A. GENERAL POLICY

Income and the Total Tenant Payment are calculated in accordance with federal regulations for the Section 8 Rental Assistance Program.

Annual Income is used to determine whether the family is within the required income limits for program participation. Annual Income represents the gross amount of income to be received by the household.

HUD has published allowable deductions and exclusions from annual income. When these applicable deductions and exclusions are considered, the result is adjusted income.

Both annual and adjusted income are used to determine the rent calculation for Housing Choice Vouchers.

Annual income is defined as the gross amount of income (prior to deductions) anticipated to be received by the family during the 12 months after certification or recertification.

The OCHA must compute all income of every family member who is on the lease, including those who are temporarily absent.

In addition, the OCHA must count the income of the spouse of the head of the household if that person is temporarily absent, even if that person is not on the lease.

Income of persons permanently absent from the household will not be counted.

Income is defined by HUD regulations and is further interpreted in HUD notices, memos and guidelines. Those rules must be followed. However, there are policy decisions which are needed in order to assure consistent interpretation of the HUD rules.

All families receiving rental assistance must have a minimum total tenant payment of \$50.

B. SPECIAL FAMILY CIRCUMSTANCES

General Conditions:

Families must report in writing to the OCHA any absence from the household of more than thirty consecutive days and shall report the change to the owner, consistent with the lease provisions. Such special situations, are defined below:

1. If the members of the household are absent from the assisted unit for more than 60 days in a calendar year, except for medical circumstances described below, the unit will not be considered to be their principal place of residence and their assistance will be terminated.
2. If the sole member of the household leaves the household for more than 60 days in a calendar year, the unit will not be considered to be their principal place of residence and their Section 8 assistance will be terminated unless the participant requests an extension by submitting documentation from a reliable medical source that they will return within a maximum of 180 days.
3. If the sole member of the household has to leave the household to go to the hospital or nursing home, advice from a reliable medical source will be obtained as to the likelihood and timing of the their return. If the medical source feels they will be permanently confined to a nursing home, they will be considered permanently absent. If they are temporarily confined, they will not be considered permanently absent. In no event, however, will the unit be considered their principal place of residence when they are out of the household for more than 180 consecutive days.
4. If the member's child or children is/are temporarily absent from the household due to foster care, the OCHA will try to contact Social Services to determine the length of time before the child or

- children will be returned. The situation will be reevaluated after ninety days. The parent may retain their eligibility as a remaining member of the tenant family. However, they may have to be issued a different size Voucher. If the children are projected to be out of the home for more than the 180 days, the Voucher size will be reduced.
5. If the OCHA has determined that both parents must leave the household and the Department of Social Services and/or the Juvenile Court has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the OCHA will not change the head of household without a court order. Any income received on behalf of the remaining family member will be counted during this period. This process does not preclude the fact that the landlord may choose not to accept the new adult caretaker. The OCHA will work with the appropriate service agencies and the landlord to provide a smooth transition of the process(es) involved in these cases.
 6. If a member of the household is subject to an order of protection that excludes someone from the home, they will not be considered under the temporarily absent policy during the period the court order is in effect.
 7. If minors leave the household, the head of household will be required to provide documentation of legal guardianship or custody by another person.

Spouse:

If the spouse leaves the household, the family must report the change in family composition to the OCHA, stating the spouse is temporarily/permanently absent within fifteen calendar days.

If the spouse leaves the household and the period of time is less than 90 days, the family member will be determined temporarily absent unless the verification(s) prove otherwise, as specified in Chapter 9, of this document.

Persons who report that a spouse has left the household in this situation must provide adequate proof of absence if they are to be considered permanently absent during the first 90 days.

The spouse will be determined permanently absent if the family declares that the spouse has been gone for more than 90 days of the recertification period and declares the spouse is permanently absent in writing.

The 90 days specified in this section starts from the time the remaining family spouse reported the change in family composition or the spouse actually left the unit, whichever is earlier.

If the family member with children gives notice to the OCHA before vacating the unit, the OCHA will review the situation and make a determination as to who will retain the Voucher.

Adult Family Members Other than Spouse:

Other persons who were declared to be members of the family may be declared permanently absent, such as members living in a spousal relationship, if the family declares that the person has been gone for more than 90 days of the recertification period and declares the person is permanently absent in writing.

The 90 days specified in this section starts from the time the remaining family member(s) reported the change in family composition or the person actually left the unit, whichever is earlier.

Persons who report that an adult family member other than spouse has left the household in this situation must provide adequate proof of absence if they are to be considered permanently absent during the first 90 days.

If the person leaves the household and the period of time is less than 90 days, the family member will be determined temporarily absent unless the verification(s) specified in Chapter 9, of this document.

If the family member with children gives notice to the OCHA before vacating the unit, the OCHA will discuss the situation and make a determination as to who will retain the Voucher.

If the person has been absent from the household for more than 90 days and wants to return, the family must request the OCHA's permission after the landlord has granted their permission. The OCHA will review the family's request. Factors which will be considered include:

- Subsidy standards
- Health and safety
- Pattern of family composition changes
- Circumstances of current request

Adult Child:

If an adult child goes into the military and leaves the household, they will be determined permanently absent.

A student (other than husband or wife) who attends school less than 150 miles away from home but who lives with the family during school recesses may be considered permanently absent (income not counted, not on lease, not counted for Voucher size) or temporarily absent (income counted, on lease, counted for Voucher size) at the family's option. A student who lives more than 150 miles from home will be determined permanently absent.

Adult children of the head of household and/or spouse who were declared to be members of the family may be declared permanently absent if the family declares that the person has been gone for more than 90 days of the recertification period and declares the person is permanently absent in writing.

The 90 days specified in this section starts from the time the remaining family member reported the change in family composition or the person actually left the unit, whichever is earlier.

Persons who report that an adult child has left the household in this situation must provide adequate proof of absence if they are to be considered permanently absent during the first 90 days.

If the person leaves the household and the period of time is less than 90 days, the family member will be determined temporarily absent unless the necessary verification(s) are provided.

If the person has been absent from the household for more than 90 days and wants to return, the family must request the OCHA's permission after the Landlord has granted his/hers. The OCHA will review the family's request. Factors which will be considered include:

- Subsidy standards
- Health and safety
- Pattern of family composition changes
- Circumstances of current request

The person must not reside in the assisted unit until written permission is received from the OCHA and the OCHA has included that person as part of the assisted family in its records.

Joint Custody of Children

If children are a part of an assisted household pursuant to a court order joint custody agreement, a document from the court indicating the nature of the custody will be submitted.

Children who are subject to a joint custody agreement, but live in the unit at least 51% of the time, will be considered members of the household. If the family includes a child who is temporarily absent from the home due to foster care, the standards in 8.B.3. of this document will be used.

If both families are on the program or the waiting list, the child may be claimed by only one parent. The parents will be encouraged to make a decision as to which parent claims the child as a family member.

If there is no agreement by both parties, “51 percent of the time” is defined as 183 days of the year (which do not have to run consecutively) and will be so be used to determine the “place of residence” for that child.

Visitors:

Visitors are allowed to stay for up to 15 consecutive 12 month period and up to 30 days in a calendar year under the typical lease. Visitors are not members of the assisted household.

Visitors who stay longer than 15 consecutive calendar days and/or 30 days in a 12 month period must have written permission of the landlord with a copy to the OCHA. Any visitor who has been in the unit 15 consecutive calendar days or more than 30 days in a 12-month period will be considered to be living in the unit as a household member.

Acceptable proofs of an alternate location of such an individual’s permanent residence are specified in Chapter 9, of this document.

Minors and college students who were part of the family, but who now live away from home during the school year and are not considered members of the household, may visit for up to 150 days per year without being considered a member of the household as long as they have written permission of the owner/manager.

In addition, in a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting to Owner:

The additional person(s), whether a family member or a visitor, must be reported to the owner/manager. In the case of a minor child staying longer than the time specified or college students who were part of the family but who now live away from home during the school year and are not counted as family members, as described above, written permission must be obtained from the owner, allowing them to continue in residence as a visitor, with a copy to the OCHA.

Reporting to the OCHA:

The family must declare a member as permanently or temporarily absent in writing to the OCHA within 15 days of the change to the household composition. The OCHA will advise the family at that time, or at reexamination, what the options are and how it might affect the total tenant payment or the Voucher size.

The family should be counseled at briefings and reexaminations on the effect of the permanently/temporarily absent policy on rent and /or Voucher size.

Reporting Additions to Owner and the OCHA:

Reporting changes in household composition to the OCHA is both a HUD and an OCHA requirement.

Family obligations require the family to request the OCHA’s approval to add any other family member as an occupant of the unit and to inform the OCHA of the birth, adoption or court-awarded custody of a child

within 15 days. The family must request prior approval of additional household members in writing. Such notification must also be done for the unit owner and his written approval must be forwarded to the OCHA.

C. AVERAGING INCOME

There are two ways to calculate income when it cannot reasonably be anticipated for a full year:

- Annualize current income (and subsequently conduct an interim reexamination if income changes); or
- Average known sources of income that vary in order to compute an annual income (no interim adjustment will be required if income remains what was initially calculated).

The OCHA will use the “averaging known sources” method for all families unless a Supervisor approves an exception to this rule.

Last year’s income may be analyzed to determine the amount of income to be anticipated when the current year’s income cannot be clearly verified.

If there are bonuses to be anticipated in the current year’s income, but the employer cannot specify an exact amount, the bonus from last year, if any, will be used for calculation purposes.

If, by averaging, a reasonable estimate can be made, that estimate is to be used to anticipate annual income over the next 12 months (as opposed to changing the HAP every month as the income fluctuates).

At reexamination, the OCHA may use last year’s income, if the income cannot be anticipated for the coming year, and average, if necessary.

D. MINIMUM INCOME

Section 8 Housing Assistance Payments and related programs are available only to families earning less than 80% of the area median income.

Families assisted under the Section 8 Rental Assistance Programs must pay a monthly minimum total tenant payment of not less than \$50.

Families claiming to have no income will be required to execute verification forms monthly to determine that sources of income (e.g. unemployment benefits, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), etc.) are not being received by the household. The OCHA reserves the right to call the tenant in the office for the verification process, calling child protective services when appropriate and by running credit checks.

E. TEMPORARILY ABSENT FAMILY MEMBERS’ INCOME

Income of temporarily absent family members is included in total income for tenant rent calculation purposes.

If the spouse or the head of household is temporarily absent, their entire income is counted, whether or not they are on the lease. The decision as to whether such a person is considered temporarily absent will be made in accordance with policies in the Administrative Plan.

If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may promulgate) is counted as income.

F. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME

If a person is permanently confined to the hospital or nursing home, and there is a family member left in the household, the OCHA will calculate the total tenant payment, using the following method:

- If the income of the confined person goes directly to the nursing home, the OCHA will exclude the income of the person permanently confined to the nursing home and give the assisted tenant no medical deductions paid on behalf of the confined family member.
- If the income of the confined person is paid to an assisted family member, the OCHA will include the income of the person permanently confined to the nursing home and give the tenant the medical deductions allowable on behalf of the person in the nursing home.

For determination as to whether the person is confined to a nursing home on a temporary or permanent basis, see the definition of temporarily/permanently absent in Section 8.B. of this Plan.

G. REGULAR CONTRIBUTIONS AND GIFTS; RECURRING CONTRIBUTIONS AND GIFTS

Regular contributions and gifts received as consistent monthly payments for one year from persons inside and outside the household are counted as regular contributions for tenant rent calculation purposes.

This includes rent and utility payments paid on behalf of the family and other cash or non-cash contributions provided on a regular basis.

Casual contributions or sporadic gifts (those received for less than one year) are not considered regular contributions and/or gifts.

An affidavit will be obtained from the client, noting the source of such contributions or gifts wherever possible. Third-party verification will be used when obtainable.

H. ALIMONY AND CHILD SUPPORT

Regular alimony and child support payments are counted as income for tenant rent calculation purposes.

If child support is not received on a regular basis, the OCHA must count the amount of child support in the divorce decree or separation agreement unless the OCHA verifies that the income is not received.

In order to calculate any amount other than the amount in the specific award, the OCHA must obtain a certification from the tenant as to how much is being received on an annual basis. Additionally, the tenant must provide documentation that the family has filed with the agency responsible for enforcing such payments.

When a report on child support is received from the District Attorney's office for the prior 12 months, the OCHA will use the amount received over the last 12 months, if no projection of anticipated income can be calculated.

Where there is no print-out, or where there is disagreement in the amount received in the verification documents, or statements, or where families have stated that they have never filed with an agency to enforce payments, the OCHA will request information from the District Attorney's office.

The OCHA will use the divorce decree provided by the family. If more information is needed, the OCHA will request a copy of the divorce decree from the County Recorder's office.

The OCHA may also verify information with the former spouse.

If no other documents are obtainable, the OCHA will accept an affidavit from the family of the amount they are receiving.

I. LUMP-SUM RECEIPTS

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses, are not included in income.

Lump-sum payments caused by delays in processing periodic payment (such as unemployment or welfare assistance) are counted as assets.

Treatment of accumulated periodic payments due to the deferral of income resulting from a dispute, is handled no differently than periodic payments deferred because of processing problems.

The OCHA may develop a calculation method, which calculates retroactively or prospectively, as long as full rent is received.

For Section 8 Rental Assistance, the calculation will be done prospectively for families who report the lump-sum amount on a timely basis.

Prospective Calculation Methodology:

If the lump-sum amount is received and reported, resulting in an interim adjustment, it will be calculated as follows:

- The entire lump-sum payment will be added to the rest of the annual income at the interim reexamination;
- The OCHA will determine the percent of the year the interim represented;
- At the next annual recertification, the OCHA will take the remaining percentage of the year not used, apply it to the lump sum and add to the rest of the annual income;
- The lump-sum will be used in the same method for any interims which occur prior to the next annual recertification.

Attorney Fees:

Attorney fees may be deducted from lump-sum payments when computing annual income when the attorney's efforts have recovered a lump-sum compensation for the wrongful reduction or denial of a periodic payment, and the recovery does not include an additional amount in full satisfaction of the attorney fees.

In such situations, the tenant does not actually recover the entire amount of the past-due periodic payments because they must pay the attorney fees.

This situation does not include those in which an amount is withheld from funds otherwise due the tenant to satisfy legitimate financial obligations unrelated to obtaining the income such as:

- Withholding from wages to apply to child support, alimony or a judgement creditor;
- Garnishment for failure to pay child support, alimony, or a judgement creditor.

This situation does not include those instances where a tenant incurs attorney fees unrelated to asserting a right to a source of income, or where no income results from the attorney's actions. These are the financial responsibility of the tenant and are not deducted in determining annual income.

J. CONTRIBUTIONS TO RETIREMENT FUNDS

Contributions to company retirement/pension funds are handled in the following manner:

- While an individual is employed, the OCHA will count only the amount the family can withdraw without retiring or terminating employment; and
- After retirement or termination of employment, the OCHA will count any amount the employee elects to receive as a lump-sum.

K. GRANTS AND SCHOLARSHIPS

Educational scholarships include various educational entitlements, grants, work-study programs, and financial aid packages other than Title IV. They also include amounts received by veterans for educational purposes and student loans.

All such funds are exempt for both part-time and full-time students and will not be counted as part of the recipient's income.

L. ASSETS DISPOSAL FOR LESS THAN FAIR MARKET VALUE

The OCHA must count assets disposed of for less than fair market value during the two years preceding the examination or reexamination. The OCHA will count the difference between the market value and the actual payment received.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Generally, assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

The OCHA's minimum threshold for counting assets disposed of for less than fair market value is \$1000. If the total amount of assets disposed of within a one-year period is less than \$1000, they will not be considered an asset for the two-year period.

If the total amount of assets disposed of within a one-year period is more than \$1000, all assets disposed of for less than fair market value will be counted as assets for two years from the date the asset was disposed of.

M. CHILD CARE EXPENSES

A child care deduction will not be given for children under 13 years of age attending a private school, instead of a public school. However, if the private school also provides day care or after-school care, in addition to regular school hours for school-age children, the after-hours care can be counted as child care expenses, as long as the family is eligible for a child care deduction.

Child care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child. Those adult members who would be considered unable to care for the child include:

- An adult member in a documented child abuse situation;
- A medically disabled or older person unable to take care of a small child, as determined by doctor's statement.

The reasonableness criteria for allowing child care expenses as a deduction uses the following standards applied to Head of Household or spouse only:

- Child care to work: The maximum child care allowed will be based upon the amount earned by the person enabled to work. The “person enabled to work” will be the adult member of the household who earns the least amount of income from working.
- Child care for school: The OCHA will compare the number of hours the family member is attending school and base the reasonableness standard on the number of hours attending school (with the addition of one hour travel time to and from school) versus the number of hours claimed for child care.
- Rate of Expense: The OCHA will collect data to determine a reasonableness standard. The determination will be made only on a reasonable HOURLY rate.
- If the OCHA feels the child care is unreasonable according to this standard, the standard may be used as the maximum.

If the child care provider is an unlicensed individual, the individual must provide their Social Security number and a statement of the amount that individual is being paid or a child care allowance will not be given.

N. MEDICAL EXPENSES

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS publications will be used as a guide.

Nonprescription medicines must be doctor recommended with a specific dosage and verified current expenses projected for the dosage on the receipts provided, in order to be considered as a medical expense.

Acupressure, acupuncture, herbal medicines, and chiropractic services will not be considered allowable medical expenses.

O. REDUCTION IN BENEFITS

If the family’s benefits such as Social Security/SSI or TANF were reduced through no fault of the family, the OCHA will use the net amount of the benefit.

If the family’s benefits were reduced due to family error, omission, or misreporting, the gross amount of the benefit will be used as income.

P. GENERAL ASSISTANCE

The OCHA will use the gross amount of General Assistance for which the family is eligible.

Q. INCOME FROM WORKING STUDENTS

Earned income in excess of \$480 from each dependent family member who is also a full-time student (those persons attending high school or taking twelve (12) units or more at a college or university or is considered a full-time course by the college or university) is exempt from calculations of family annual income. Such funds need to be declared to the OCHA, however, these funds in excess of \$480 (upon verification) will not be included in family annual income as it relates to the family’s portion of rent.

When there has been a change in full-time student status for any family member, the tenant must report within 15 days. Failure to report will result in a repayment owed to the OCHA.

The income of a full-time student whose status changes to part-time will be included in the family's calculation relative to the family's portion of rent.

R. MINIMUM FAMILY CONTRIBUTION TO RENT

All households receiving rental assistance must pay a minimum total tenant payment of rent of \$50.00. When a family is designated to pay a minimum rent they will be informed in writing. If the family believes that this amount would pose a hardship to the family, they may request a review/hearing as outlined in Chapter 23 (Complaints and Appeals). However, specific attention must be given to the minimum income statement found in 8 D of this Chapter.

